

ZB# 96-45

Merrell Reddings

65-1-42.4

#96-45-Reddings, Merrell

(use variance)

65-1-42.4.

Prelim.

November 25, 1996.

SEQR 4

Fees paid 4.

Probs here 4.

Public Hearing:

Jan. 27, 1997.

Denied

Refund due:

126.50

Decision done

Prelim.

June 9, 1997

Motion to sched. P.H.



#96-45.



Steve
Kane is
now appearing
Mike
bedding
7/25/97.

Mike
6-7-1926



#96-45



APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Redding, Merrell

FILE# 96-45 (a)

RESIDENTIAL: \$50.00
INTERPRETATION: \$150.00

COMMERCIAL: \$150.00

AREA ☐

USE ☒

APPLICATION FOR VARIANCE FEE \$ 50.00

*

*

*

ESCROW DEPOSIT FOR CONSULTANT FEES \$ 300.00

DISBURSEMENTS:

STENOGRAPHER CHARGES: \$4.50 PER PAGE

PRELIMINARY MEETING-PER PAGE 6/2/97-2.4 hrs \$ 9.00
2ND PRELIMINARY- PER PAGE \$ _____
3RD PRELIMINARY- PER PAGE \$ _____
PUBLIC HEARING - PER PAGE \$ _____
PUBLIC HEARING (CONT'D) PER PAGE \$ _____

TOTAL \$ _____

ATTORNEY'S FEES: \$35.00 PER MEETING

PRELIM. MEETING: 6/9/97 \$ 35.00
2ND PRELIM. \$ _____
3RD PRELIM. \$ _____
PUBLIC HEARING \$ _____
PUBLIC HEARING (CONT'D) \$ _____

TOTAL \$ _____

MISC. CHARGES:

..... \$ _____
TOTAL \$ _____

LESS ESCROW DEPOSIT \$ _____
(ADDL. CHARGES DUE) \$ _____
REFUND DUE TO APPLICANT . \$ _____

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Bedding, MerrellFILE # 9645

RESIDENTIAL: \$ 50.00

COMMERCIAL: \$150.00

INTERPRETATION: \$150.00

AREA ☐USE ☒APPLICATION FOR VARIANCE FEE \$50.00 paid
1/3/97 #218ESCROW DEPOSIT FOR CONSULTANT FEES \$300.00 paid
1/3/97 #219

DISBURSEMENTS -

STENOGRAPHER CHARGES: \$4.50 PER PAGE

PRELIMINARY MEETING - PER PAGE	11/25/96 - 6 pages	\$ 27.00
2ND PRELIM. MEETING - PER PAGE	1/27/97 - 19 pages	\$ 76.50
3RD PRELIM. MEETING - PER PAGE		\$
PUBLIC HEARING - PER PAGE		\$
PUBLIC HEARING (CONT'D) PER PAGE		\$
TOTAL		\$ 103.50

ATTORNEY'S FEES: \$35.00 PER MEETING

PRELIM. MEETING: . . .	11/25/96	\$ 35.00
2ND PRELIM.	1/27/97	\$ 35.00
3RD PRELIM.		\$
PUBLIC HEARING		\$
PUBLIC HEARING		\$
TOTAL		\$ 70.00

MISC. CHARGES:

TOTAL	\$ 173.50
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LESS ESCROW DEPOSIT . . .	\$ 300.00
(ADDL. CHARGES DUE) . . .	\$
REFUND DUE TO APPLICANT .	\$ 126.50

(ZBA DISK#7-012192.FEE)

219

10/20

Pay to the order of Mr. J. K. G. Brown \$ 300.00

Marine Midland Bank

Vails Gate Office
Route 94 & Temple Hill Road
Vails Gate, New York 12584

For ZBA #96-45

⑆02800108⑆⑆07878233⑆⑆0219

218

1-108/280

Merrell M. Reddings
Ph. 914-567-1826
22 Reddings Place
New Windsor, NY 12553

Pay to the order of Town of New Windsor \$ 50.00

Marine Midland Bank

Vails Gate Office
Route 94 & Temple Hill Road
Vails Gate, New York 12584

For ZBA #96-45

⑆02800108⑆⑆07878233⑆⑆0218

Date 2/11 1972..

TOWN OF NEW WINDSOR

**TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553**

TO Merrill Reddings DR.
22 Redding Place
New Windsor, N.Y. 12553

DATE	CLAIMED	ALLOWED
2/11/97	Refund of Escrow- ZBA # 96 -45	\$126 50
<p>Approved: Patricia A. Bankart ZBA</p>		

Date 5/6/98, 19...

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Roth DR.
168 N. Drury Lane
Newburgh, N.Y. 12550

DATE		CLAIMED		ALLOWED
5/1/98	Zoning Board Mtg	75	00	
	Misc - 2			
	Brady - 9			
	Koller - 3			
	Mid-Valley Oil - 3			
	Oakwood Terrace - 3			
	Coloni - 3			
	Ciccione - 4			
	Reddings - 4			
	<u>31</u> 18.00	139	50	
		214	50	

REDDINGS

MR. KRIEGER: I received in today's mail response to my letter asking for additional information on this case. I have reviewed the case and I have done some research in connection with that and it raises to me, it simply raises certain things that have to be covered in the decision that I had not originally anticipated. It does not in my view compel any change in thinking by the board as to its decision and the reason for same. So, I would say at this point, Mr. Chairman, I would ask the board to take this up from the table and vote on it after which I will draft a decision which I will have presented by the next meeting that will have everything in it that has to be in it.

MR. TORLEY: Andy, given the fact that I requested this giving them a deadline of last week, the lack of timing should also be noted in their statement. Clearly, we told them we needed a week ago so Andy could take a look at it and it shows up in his mail this morning, that to me shows a lack of due diligence on their part.

MR. KRIEGER: Yes, but nevertheless, I was aware that, nevertheless, when it came in, I read it and reviewed it and as I say, did necessary legal research in connection.

MR. NUGENT: Any additional questions that anyone has on the board?

MR. REIS: Andy, was his submission, was it another case study?

MR. KRIEGER: It was a case, the case that he cited was out of the Third Department, we're in the second, and it was decided in 1987 the amendments to 267B to have the town law codified, the requirements for a use variance occurred in '92. So the decision was made prior to those amendments. Nevertheless, I went through it, as I say, there are certain things that he raised that I think should be mentioned in the written decision which I will propose to you as soon as it's done.

MR. TORLEY: Andy, would, if that decision was given before the law was changed, wouldn't that render it moot in any case?

MR. KRIEGER: Well, that was my first reaction, but in going on and reading the decision, apparently that Zoning Board of Appeals that decided that particular case did consider the self-created hardship aspect, even though it was not a formal requirement of proving unnecessary hardship in 1987 which it is now. But nevertheless, it was considered and it also raised some questions with respect to the standard which is appropriate for proof of lack of a reasonable return if you remember that criteria. Now, I think in my own feeling in that particular case, which the applicant urges be considered to be the same as this which I don't agree, they addressed reasonable return by the use that in that particular case that they could not put the structure to and become obsolete. It was a community recreation facility for a subdivision they seek permission to use for a different purpose. As I say, I view that quite differently from this application where you have structures that are perfectly suitable for one or two family use which is an allowed use in that zone and is not obsolete at all. The term obsolete doesn't seem to me to apply here. But I think that that case having been cited by the applicant ought to be addressed in the decision and distinctions ought to be spelled out as to why it's different.

MR. TORLEY: Nonetheless, though, the state legislature has rewritten the code specifically stating certain things that were not in effect when that judge rendered his decision, therefore, that decision is to my mind irrelevant.

MR. KANE: Depends on what they changed, what part of the decision can have certain things that are relevant and certain things are not depending on what parts of the law was changed, I think it's a moot point.

MR. KRIEGER: In 1987, there were three standards for unnecessary hardship established by the case of Otto V. Steinholder, which is the fountainhead from which all

the zoning law comes, the three criteria were substantially identical to the first three criteria in the statute. What was not mentioned in the Otto case but was later mentioned in a number of cases and became an accepted part of use various applications is proving that it was not a self-created hardship. That wasn't originally in the Otto case, it was added later on when the legislature codified use variances, they took the three criteria from Otto and that fourth criteria which came along after Otto and they sort of brought it into the fold, if you will, and create what's now the four standards. So while you can say that because it was decided before the statute, that wasn't a criteria, the decision does address it, that court did address the question of unnecessary, I'm sorry, of self-created hardship and because it was as a matter of fact addressed, I think it should be covered in any written decision made by, rendered by this board in order for it to be complete. As I say, I do not see, however, that it, I did not personally accept the argument that it compels a different finding by this board, what I was prepared to make, I read it as not changing--

MR. NUGENT: But personal opinion is that he didn't show any new evidence, he did not got definitely have a self-created hardship, we all visited the site, he definitely built a four family house, I just feel that--

MR. TORLEY: I think it is proper for us to take notice of the fact that he apparently has placed more than two families in that second structure that we actually visited which at the time had no utility fixtures or range or toilets in the second floor, but it's apparently from the record and on some occasions had more than two families living there, so after we told him no, he expanded his non-conforming, his violation then I think it's valid of us to take notice of that.

MR. KANE: Mr. Chairman, if you'll move that we untable the decision on Mr. Reddings and vote on it.

MR. NUGENT: Fine.

MR. TORLEY: Do we need a motion?

May 11, 1998

30

MR. KRIEGER: Motion to take it off the table.

MR. TORLEY: Second it.

ROLL CALL

MR. REIS	AYE
MR. TORLEY	AYE
MR. KANE	AYE
MR. NUGENT	AYE

MR. NUGENT: I'll accept a motion.

MR. TORLEY: Since we must make all motions in the positive sense, I move that we grant Mr. Reddings his requested variances.

MR. KANE: Second the motion.

ROLL CALL

MR. REIS	NO
MR. TORLEY	NO
MR. KANE	NO
MR. NUGENT	NO

MR. REIS: Thank you for your time and research on that.

MR. KRIEGER: I'll have a written decision for you by next meeting which will--

MR. TORLEY: Be in June.

MR. NUGENT: There's no other meeting this month.

MS. BARNHART: The next meeting will be on a holiday.

MR. KANE: Motion to adjourn.

MR. REIS: Second it.

ROLL CALL

-----X
In the Matter of the Application of

MERRELL REDDINGS

#96-45.
-----X

MEMORANDUM OF
DECISION DENYING
USE VARIANCE

WHEREAS, residing at 22 Reddings Place, New Windsor, New York, 12553, has made a request for a use variance to allow existing four-family residence at 16 Reddings Place in an R-3 zone. Two-family residences permitted; and

WHEREAS, a public hearing was held on the 27th day of January, 1997 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant appeared by himself and by Richard Schisano, Esq. and Steven Reich, Appraiser; and

WHEREAS, there was one (1) spectator appearing at the public hearing; and

WHEREAS, one person spoke and raised certain questions with respect to the number of houses on the parcel and whether the application was for one or more than one house; and

WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing denying the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance to its previously made decisions in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The evidence presented by the applicant showed that:

(a) The subject property is a two-family house located in a residential neighborhood of one and two family homes.

(b) The applicant obtained site plan approval from the New Windsor Planning Board.

(c) The applicant has built more than one house on the property.

(d) The applicant obtained site plan approval from the Planning Board and a

building permit and certificate of occupancy from the New Windsor Building Inspector for use of both premises that have been constructed as two-family homes.

(e) The applicant submitted a profit and loss statement for the past year prepared by Kenneth Copans, CPA comparing the properties expenses and income as a two-family and also containing a projection as if the structure were a four-family home for the same period. Mr. Copans was not present at the hearing nor did he testify.

(f) Although two homes have been constructed on the property, the instant application is only for one of the buildings.

(g) Based upon the profit and loss statement prepared by the accountant, it is the applicant's contention that the property results in a considerable loss when operated as a two-family and that if it were permitted to be operated as a four-family it would show a small profit.

(h) If the property is permitted to be used for four-family purposes, the applicant intends that there be no changes to the exterior of the property and that it would continue to appear as it does now which is basically as a large one-family colonial. For that reason the applicant argues that there would be no change in the character of the neighborhood.

(i) The house which is the subject of this application was constructed within the last two years.

(j) It is the contention of the applicant that the property meets all of the "criteria" for a four-family home except for the fact that that use is not permitted in this zone.

(k) The applicant's appraiser testified that using the "income approach" to evaluation for a two-family home, the usual result is either a minimum or a negative "in a fairly new home".

(l) The applicant's appraiser also testified that for homes such as in the instant case, "time is pretty well justified as a basic but the income approach does not support value". He further testified that you have to have a three or four-family home in newer style homes in order to see a profit because of the cost of construction.

(m) The applicant's appraiser testified that increasing the house from a two-family to a four-family house with strictly internal changes only would have no effect on the value in the area.

(n) No allowance for depreciation was made in the calculation submitted from applicant's accountant nor was any evidence offered as to depreciation.

(o) The structure was constructed as a two-family house.

(p) The applicant testified that the structure currently is a two-family house with

both apartments on the same level. Each apartment has two bedrooms.

(q) The applicant testified that the first floor of the structure is empty and that the structure was built as a two-family house with the first floor empty.

(r) The property is serviced by municipal sewer and a well not having municipal water available.

(s) The structure meets the bulk and area requirements of the Zoning Code for use as a two-family house.

(t) The property cannot be used for raising of crops etc. because it is less than five acres.

(u) The property cannot be used for buildings, structures and uses owned and operated by the Town of New Windsor since it is not owned by the Town of New Windsor.

(v) The property is not suitable as a public park or playground.

(w) The property is not suitable for use as a place of worship and the property size is below that required in the Zoning Code.

(x) The property cannot be used for outdoor recreational facilities because it is less than the minimum area required for such use.

(y) The applicant's appraiser testified that a one-family home in that area would be worth between \$175,000 and \$180,000.

(z) The applicant testified that a lot of his own effort went into constructing the premises but the applicant supplied no figures, calculations or evidence by which the Zoning Board of Appeals could make a determination as to what the value of such efforts was.

(a-1) The applicant estimated that he had expended approximately \$175,000 but provided no details or supporting evidence as to the components and amounts of the expenditures which he made.

(a-2) In response to a question by a Board member, the applicant testified that to have a contractor build this structure would cost "probably about \$400,000". No evidence of any kind was submitted in support of this estimate and there is no evidence before the Board by which it could calculate or verify the amount of such estimate.

(a-3) No calculations, figures, estimates or evidence was submitted by the applicant which would permit the Board to make a determination as to the cost of construction or the cost of this property to the applicant other than his vague-general approximations.

(a-4) The applicant's attorney stated in the presence of the applicant that a multi-family variance was sought for only one of the buildings owned by the applicant.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

(a) The applicant did not show that he cannot realize a reasonable return on the property. The applicant submitted no reason why the premises could not be used as a single-family dwelling. In addition, the applicant submitted no competent evidence as to the cost of construction of the property so that the Zoning Board of Appeals could make a determination as to the reasonableness of the return received by the applicant.

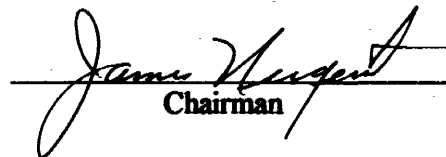
(b) The application must be denied as a self-created hardship. The applicant applied for and received site plan approval from the Planning Board and a building permit and a certificate of occupancy all as a two-family dwelling. The applicant knew at the time that he constructed it that a multi-family dwelling above two-families was not permitted in that zone and he knowingly and intentionally made a decision to develop this property. It appears from the evidence that he now regrets his decision but it was his decision and he should be held responsible for it.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor **DENY** the request for a use variance to permit four-family residence in an R-3 zone as applied for and in accordance with plans on file with the Building Inspector.

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and applicant.

Dated: April 14, 1997.


Chairman

Prelim.
Nov. 25, 1996
7:30pm.
#96-45.

OFFICE OF THE BUILDING INSPECTOR - TOWN OF NEW WINDSOR
ORANGE COUNTY, NEW YORK

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

DATE: SEPTEMBER 6, 1996

APPLICANT: MERRELL REDDIN;
105 RILEY ROAD
NEW WINDSOR, N.Y. 12553

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED: SEPTEMBER 6, 1996
FOR (BUILDING PERMIT):

LOCATED AT: 16 REDDING PLACE (PRIVATE ROAD)

ZONE: R-3

DESCRIPTION OF EXISTING SITE: SECTION: 65, BLOCK: 1, LOT: 42.4
EXISTING TWO (2) FAMILY HOUSE

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. FOUR (4) FAMILY HOUSE NOT PERMITTED IN R-3 ZONE

Use Variance

[Signature]
BUILDING INSPECTOR

REQUIREMENTS

PROPOSED OR
AVAILABLE

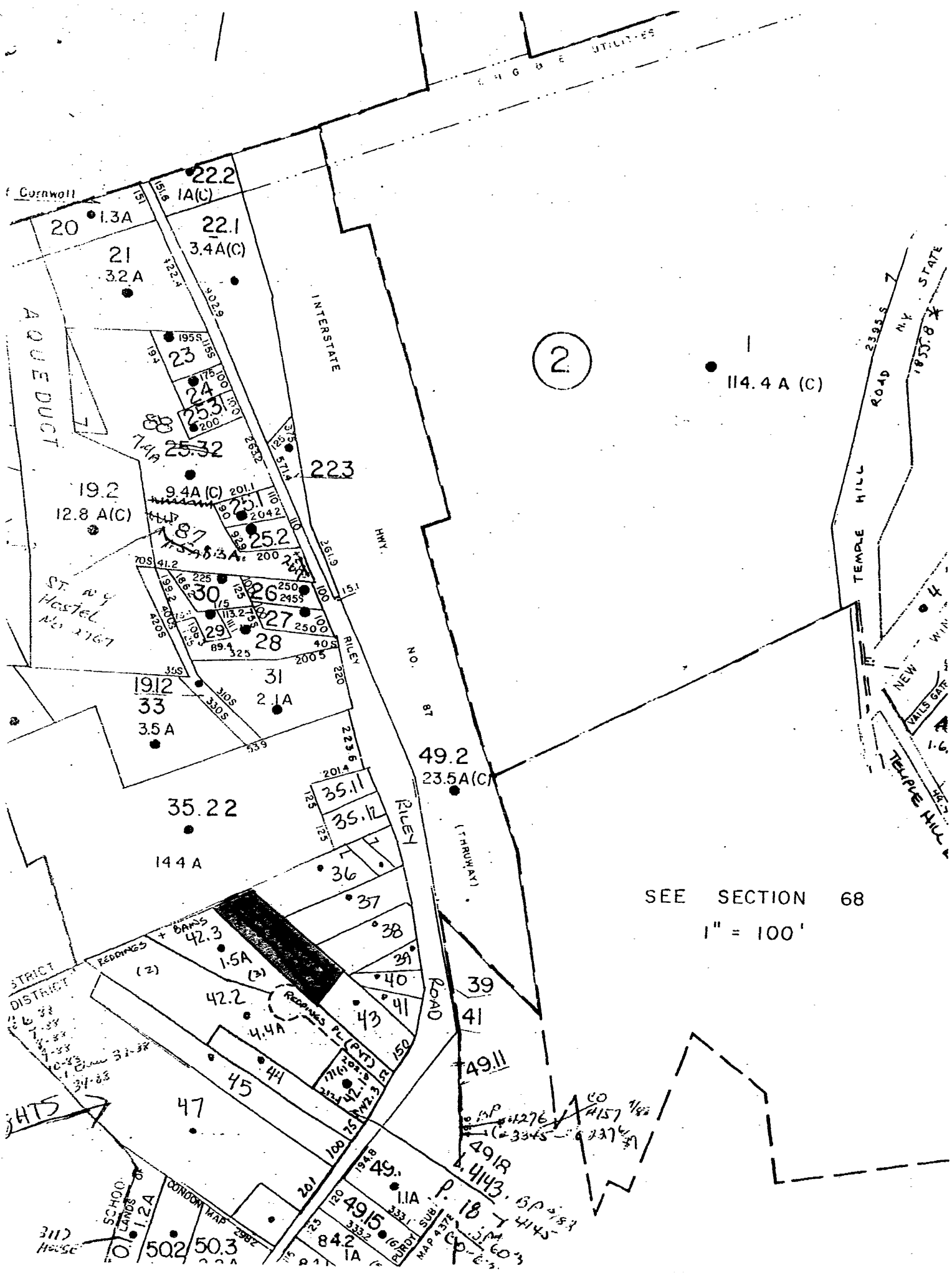
VARIANCE
REQUEST

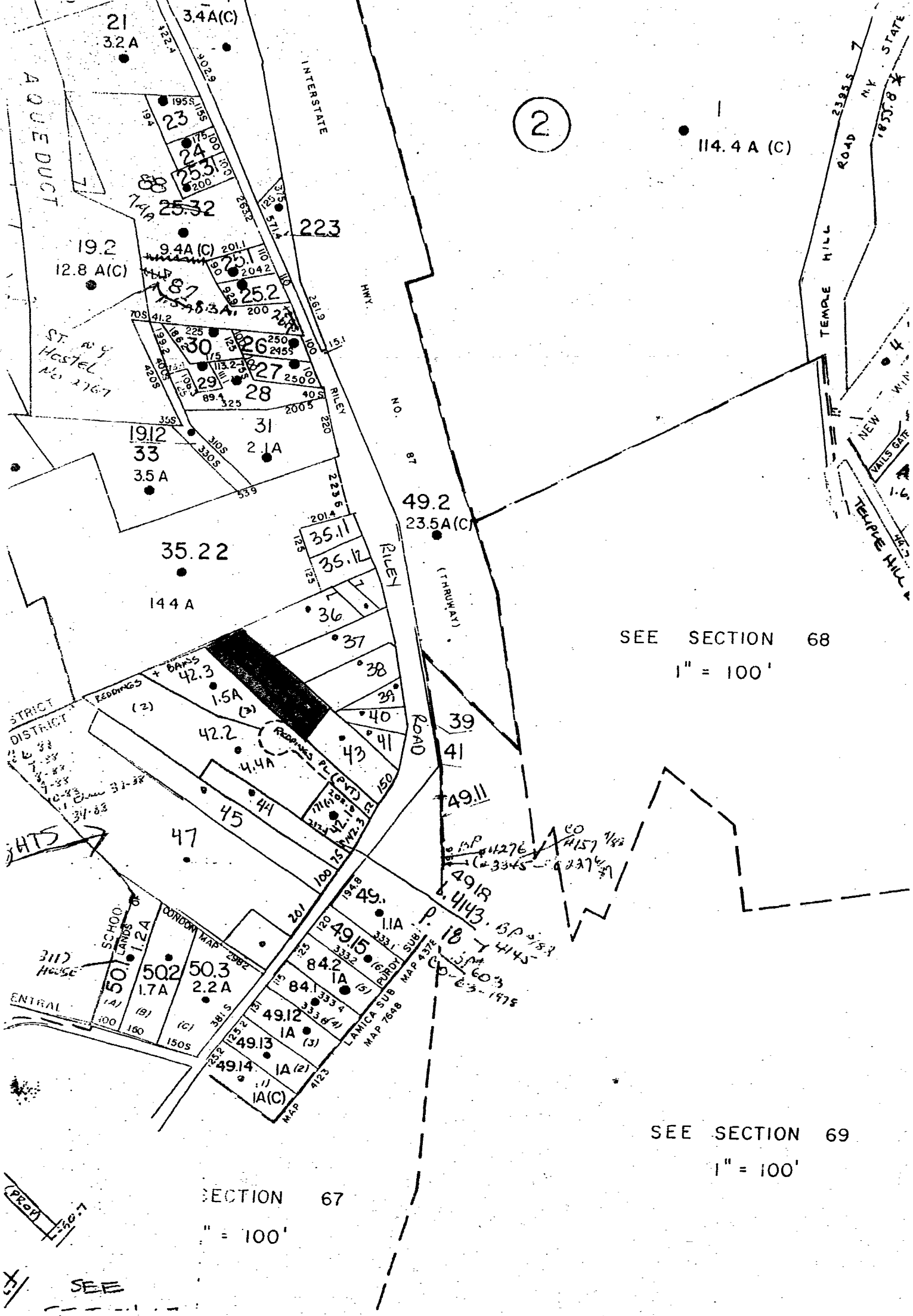
ZONE: R-3 USE 11-C

MIN. LOT AREA 65,340 SQFT. 65,341 SQFT.

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT
914-563-4630 TO MAKE AN APPOINTMENT WITH THE ZONING BOARD

CC: Z.B.A., APPLICANT, B.P. FILES.





2

114.4 A (C)

SEE SECTION 68

1" = 100'

SECTION 67

1" = 100'

SEE SECTION 69

1" = 100'

PROB

SEE

PLEASE ALLOW FIVE TO TEN DAYS TO PROCESS

IMPORTANT

YOU MUST CALL FOR ALL REQUIRED INSPECTIONS OF CONSTRUCTION

Other inspections will be made in most cases but those listed below must be made or Certificate of Occupancy may be withheld. Do not mistake an unscheduled inspection for one of those listed below. Unless an inspection report is left on the job indicating approval of one of these inspections it has not been approved and it is improper to continue beyond that point in the work. Any disapproved work must be reinspected after correction.

1. When excavating is complete and footing forms are in place (before pouring.)
2. Foundation inspection. Check here for waterproofing and footing drains.
3. Inspect gravel base under concrete floors and underslab plumbing.
4. When framing is completed and before it is covered from inside and plumbing rough-in.
5. Insulation.
6. Plumbing final and final. Have on hand electrical inspection data and final certified plot plan. Building is to be completed at this time. Well water test required and engineer's certification letter for septic system required.
7. Driveway inspection must meet approval of Town Highway Superintendent. A driveway bond may be required.
8. \$50.00 charge for any site that calls for the inspection twice.
9. Permit number must be called in with each inspection.
10. There will be no inspections unless yellow permit card is posted.
11. Sewer permits must be obtained along with building permits for new houses.
12. Septic permit must be submitted with engineer's drawing and perc test.
13. Road opening permits must be obtained from Town Clerk's office.
14. All building permits will need a Certificate of Occupancy or a Certificate of Compliance and there is no fee for this.

PLEASE PRINT CLEARLY

FILL OUT ALL INFORMATION WHICH APPLIES TO YOU

Owner of Premises

MORRELL REDDING

Address

105 RILEY RD Newburgh NY 12553 Phone 914 567-1822

Mailing Address

SAME

Name of Architect

JOHN J. DRAGON

Address

1 PERRY CREEK RD WASHINGTON NY 13992 Phone 914 496-6952

Name of Contractor

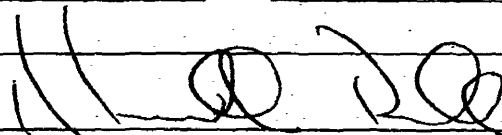
SELF

Address

Phone

State whether applicant is owner, lessee, agent, architect, engineer or builder

If applicant is a corporation, signature of duly authorized officer.


(Name and title of corporate officer)

FOR OFFICE USE ONLY

Building Permit # _____

- #16
- On what street is property located? On the EAST side of Reading Pl
and 620' (N, S, E or W) feet from the intersection of Ring Rd
 - Zone or use district in which premises are situated _____ Is property a flood zone? Y _____ N _____
 - Tax Map Description: Section 65 Block 1 Lot 42.4
 - State existing use and occupancy of premises and intended use and occupancy of proposed construction.
 - Existing use and occupancy TWO FAMILY
 - Intended use and occupancy Four Family
 - Nature of work (check if applicable) New Bldg ☐ Addition ☐ Alteration ☐ Repair ☐ Removal ☐ Demolition ☐ Other ☐
 - Is this a corner lot? NO TWO FAMILY TO FOUR FAMILY HOUSE
 - Dimensions of entire new construction. Front 64' Rear 64' Depth 34' Height 3 No. of stories 3.1
 - If dwelling, number of dwelling units: 4 Number of dwelling units on each floor 2

Number of bedrooms	<u>8</u>	Baths	<u>4</u>	Toilets	<u>4</u>
Heating Plant	Gas _____ Oil <input checked="" type="checkbox"/>	Electric/Hot Air	_____	Hot Water	<input checked="" type="checkbox"/>
If Garage, number of cars _____					
 - If business, commercial or mixed occupancy, specify nature and extent of each type of use PMA
 - Estimated cost 150,000 Fee \$50
(To be Paid on this Application)
 - School District: Newburgh #

Care for the work described in the Application for Building Permit include the cost of all the construction and other work done in connection therewith, exclusive of the cost of the land. If final cost shall exceed estimated cost, an additional fee may be required before the issuance of Certificate of Occupancy.

PROJECT I.D. NUMBER

617.21

SEQR

Appendix C

State Environmental Quality Review

SHORT ENVIRONMENTAL ASSESSMENT FORM

For UNLISTED ACTIONS Only

PART I—PROJECT INFORMATION (To be completed by Applicant or Project sponsor)

1. APPLICANT / SPONSOR RODDING MARRA		2. PROJECT NAME	
3. PROJECT LOCATION: Municipality NEWNORM County CRANE			
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) #16 Rodding R Newnorm NY 12555 / off Highway			
5. IS PROPOSED ACTION: <input type="checkbox"/> New <input checked="" type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration			
6. DESCRIBE PROJECT BRIEFLY: CHANGE A TWO FAMILY RES TO A FIVE FAMILY			
7. AMOUNT OF LAND AFFECTED: Initially NINE acres Ultimately _____ acres			
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If No, describe briefly			
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open space <input type="checkbox"/> Other Describe: DMA			
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency(s) and permit/approvals			
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, list agency name and permit/approval			
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE			
Applicant/sponsor name: MARRA RODDING		Date: 12-31-96	
Signature: [Signature]			

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

PART II—ENVIRONMENTAL ASSESSMENT (To be completed by Agency)

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.12? If yes, coordinate the review process and use the FULL EAF. <input type="checkbox"/> Yes <input type="checkbox"/> No	
B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.8? If No, a negative declaration may be superseded by another involved agency. <input type="checkbox"/> Yes <input type="checkbox"/> No	
C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible) C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly: C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly: C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly: C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly: C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly: C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly: C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly: D. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, explain briefly	

PART III—DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed.

<input type="checkbox"/> Check this box if you have identified one or more potentially large or significant adverse impacts which MAY occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.	
<input type="checkbox"/> Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action WILL NOT result in any significant adverse environmental impacts AND provide on attachments as necessary, the reasons supporting this determination:	
_____ Name of Lead Agency	
_____ Print or Type Name of Responsible Officer in Lead Agency	_____ Title of Responsible Officer
_____ Signature of Responsible Officer in Lead Agency	_____ Signature of Preparer (if different from responsible officer)
_____ Date	

Date 6/17/97, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Roth 168 N. Drury Lane DR.
Newburgh, NY 12550

DATE			CLAIMED	ALLOWED
9/97		Zoning Board Mtg	75 00	
		Misc - 1		
		Beddings - 2 \$ 9.00		
		Cocoran - 4		
		Thomas - 4		
		Supaci - 4		
		Pietrzak - 5	157 50	
		Ciancio - 15		
		<u>35</u>	232 50	

REDDINGS, MERRELL

MR. NUGENT: Request for four family residence in R-3 zone at 16 Reddings Place (only two family allowed).

Mr. Merrell Reddings appeared before the board for this proposal.

MR. REDDINGS: My attorney isn't here with me this evening. This evening I'd just like to request the public hearing at which time I will be represented by counsel with the information necessary at time of the public hearing request of the use variance for the residence.

MR. KRIEGER: Have you received a copy of the decision on your prior application? If not, there has been a formal decision, a written decision enacted by the board, if you haven't, you should get a copy from Pat.

MS. BARNHART: I sent it out, it was a while ago.

MR. REDDINGS: I have the minutes from the last public hearing, but I don't have the formal decision.

MR. KRIEGER: You should understand it's treated as a new application so the board members are free to vote on the new application as if the formal application didn't occur, we go right down to the starting line, every member is free to vote on this application as they choose. They are not bound.

MR. REDDINGS: That is find. I'm aware of that. Thank you.

MR. NUGENT: Based on that--

MR. TORLEY: I move we set Mr. Reddings up for his public hearing.

MR. REIS: Second it.

ROLL CALL

MS. OWEN

AYE

June 9, 1997

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MR. REIS	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE

MR. TORLEY: Make sure your attorney sees that formal decision.

MR. REDDINGS: Okay, thank you.

MS. BARNHART: Do you need new application, et cetera, I can send them out when I send this decision out also, I will send the whole package out to you.

MR. REDDINGS: Thank you.

To: Supervisor Meyers
From: Phil Crotty
Subject: Speed Limits
Date: June 10, 1997

MEMORANDUM

I spoke to Randy Harwood from the DOT last week concerning the speed limit on Union Avenue and also the roads in the western part of Town.

Harwood said he needs another month or so. He says that his review of County Road 69 (Union Avenue) is partly done.

He says that with respect to the roads in the western part of Town, they had been done in the past and he is looking at our requested changes.

I know this has been going on for at least six months. I just want to keep you posted.

PAC

pac/pab

cc: W. James Pullar, Highway Superintendent



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553
Telephone: (914) 563-4630
Fax: (914) 563-4693

file

OFFICE OF THE ZONING BOARD OF APPEALS

April 28, 1997

Silver, Forrester, Schisano & Lesser P. C.
328 Route 9W
New Windsor, N. Y. 12553
Attn: Richard Schisano, Esq.

Re: Reddings, Merrell - Request for Use Variance
16 Reddings Place, New Windsor, N. Y.
Section 65 - Blk. 1 - Lot 42.4

Dear Richard:

This is to advise that I have placed the above matter on the May 12, 1997 ZBA Agenda for a preliminary meeting.

Please be present with Mr. Reddings at 7:30 p.m. in the New Windsor Town Hall Court on the above date.

Very truly yours,

Patricia A. Barnhart, Secretary
Zoning Board of Appeals

/pab
Enclosure

cc: Merrell Reddings

Rec'd. ZBA
2/27/97- (MS)

cc: ZBA

Silver, Forrester, Schisano & Lesser P.C.

ATTORNEYS AND COUNSELORS AT LAW

328 ROUTE 9W SOUTH

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(914) 562-9020 (914) 562-7570

(800) 736-8556

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BARRY B. SILVER N.Y. & FL BARS
MICHAEL H. FORRESTER
RICHARD SCHISANO
SOL LESSER

LEGAL ASSISTANTS

RITA A. ANARUMO
ERIN A. BORDAS
JO BOSELLI
DONNA M. LACY
CATHY A. SAMMONS
BARBARA J. ZANETTI

FAX: 563-4693

FILE # TS

February 24, 1997

Ms. Patricia Burnhart
Secretary
New Windsor Zoning Board of Appeals
New Windsor, NY 12553

RE: MERRILL REDDINGS, Proposed Use Variance
Premises: 16 Reddings Place, New Windsor, NY
Section 65, Block 1, Lot 42.4

Dear Sir/Madam:

Please be advised that by way of this letter, I am requesting that Mr. Reddings' request for a Use Variance be restored to the agenda since new information has come to light. We would request an opportunity to present this evidence to the Board.

Kindly advise me if this will be put back on the agenda; and, if so, when we can anticipate a date and time to be present.

Thank you for your courtesy and cooperation in this matter.

Sincerely,

SILVER, FORRESTER, SCHISANO & LESSER

Richard Schisano/RS
RICHARD SCHISANO, ESQ.

RS:eb

*Any mon.
Set up Site Visit Mon, 5:30 at Site
Call MAKE Arrangements*

Date 3/12/97, 19...

TOWN OF NEW WINDSOR

**TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553**

TO Frances Roth 147 Sycamore Dr DR.
New Windsor NY 12553

DATE		CLAIMED	ALLOV
3/10/91	Zoning Board Mtg	75.00	
	Misc - 2		
	Beddings - 1 * 31.50		
	Petro Metals - 3	54.00	
	<u>12</u>	<u>129.00</u>	

March 10, 1997

Site Meeting -
3/24/97 - 5:30 PM.
Riley Road²

CORRESPONDENCE RECEIVED - RICHARD SCHISANO, ESQ.
ATTORNEY REPRESENTING MERRELL REDDINGS, REQUESTS NEW
HEARING BASED ON ADDITIONAL EVIDENCE

MR. NUGENT: I have a letter I guess we all had a chance to read it.

MR. TORLEY: Receive and file or discuss it?

MR. NUGENT: I think we need to discuss it. My own personal opinion is that I don't think we can stop him from coming back to another meeting, can we?

MR. KANE: No, if he says he has new evidence.

MR. KRIEGER: Come to a preliminary.

MR. KANE: We can decide whether new evidence warrants reopening our decision, correct.

MR. KRIEGER: Just cause he calls it new evidence doesn't mean you're going to call it new evidence.

MR. TORLEY: Would not such a reopening require a unanimous vote in any case?

MR. KRIEGER: Outside the six month period, no. Within the--

MR. TORLEY: This is clearly within six months.

MR. KRIEGER: --within the six month period, yes, but you have to understand that in voting on that, the only thing that you are voting on is whether or not to hear it. You're not voting on what to decide and so forth. One other point that I, one other note that I made in connection with that, by the way, is that, I'm not sure of the, it's moot now, but I'm not sure the last time that we went through the necessary environmental steps which we have to do for a use variance and he's not here and considering declaring a negative dec.

MR. NUGENT: That is not exactly what I had in my, what I had in mind was I would like to have each and every one of us go visit the site cause I heard from the--

MR. TORLEY: I have seen the outside, I have never been in it.

MR. NUGENT: That is what we need, the assessor's office, that they went out, is that right?

MR. BABCOCK: That is correct, the memo she sent me, yes.

MR. NUGENT: And it's four families, that man stood right there and blatantly lied to us which I think is very unfair to the board.

MR. KRIEGER: I reviewed the minutes today and it clearly says there are only two families in there, he was asked that.

MR. NUGENT: The assessor went out and checked the house, that is why I said we should go check the house.

MR. TORLEY: Now but from that memo the assessor is saying it's four families but I'm not sure the assessor said there are actually four families living there at the time.

MR. BABCOCK: She doesn't categorize a house by who's living there, by the construction of it.

MR. TORLEY: But she showed four finished apartments.

MR. BABCOCK: I got the memo that is, you know, that is it.

MR. KANE: There's two ways she can go about that, okay, if she's not allowed to go inside that residence, she can decide whatever the heck she wants to decide and that is the law, you have got to go and fight it because you refused her entry, so we don't know whether she actually got in and saw the four apartments and couldn't get in and decided--

MR. BABCOCK: He doesn't have to let me in, we can go to court.

MR. NUGENT: You can fight him for access.

MR. KANE: Same with the assessor, if you don't let them in, whatever she decides goes on the books, whatever his or her feeling is and then you have got to go back and that is when the judge says why don't you let them in.

MR. BABCOCK: Right, that is what happens.

MR. NUGENT: I don't think--

MR. KRIEGER: I would suggest that you set up a formal site visit and after he comes in for a preliminary hearing, you can do it then at a time when he will be there and you'll get access inside. That is a problem then you'll find out then and judge accordingly.

MR. TORLEY: I'm not sure it even rises to that level because if you build a structure that you say well, I have to turn it into a four family cause I built it wrong, that has to be a self-created hardship and that is a bar for use variance.

MR. KANE: But what we're saying here I think Larry is that he's requesting that second hearing based on new evidence and to me, he's the type of guy that if we don't give him that hearing, we better have a damn good reason for it rather than go to an Article 78 hearing, let's give us site inspection, let us go out and see with our own eyes, let us in and then we can make our own determination, we cross every T and dot our I's and finally put this thing to rest rather than leave it open, let us in and take a look around or our representative, whatever.

MR. KRIEGER: Or he will say he's not going to or whatever, put the ball in his court.

MR. KANE: Then that influences our decision.

MR. KRIEGER: I should think it would and I agree.

MR. KANE: We close all the doors.

MR. KRIEGER: With Mike, that is the procedure.

MR. NUGENT: When would you like to, when is most convenient for everyone to go out there? I know we all work but would a Saturday morning visit okay?

MR. TORLEY: Saturday morning, Sunday, afternoon, Monday night.

MR. KRIEGER: Well, you may want to arrange it before dark.

MR. KANE: Sunday afternoon.

MR. KRIEGER: For visibility I know when the planning board used to hold regular site plan visits, they did them Wednesday at right after work, you know, 5:30, 6 o'clock, something like that.

MR. NUGENT: We can do that.

MR. KRIEGER: That is not any kind of requirement, I'm just throwing it out telling you what somebody else did.

MR. KANE: That time is good for me as far as work if Jimmy that is no good for you.

MR. NUGENT: That is fine.

MR. REIS: I can handle that to get into the premises.

MR. TORLEY: 5:30 it will be a little tight but I can get there if I have to leave a couple minutes early one day.

MS. OWEN: That is fine with me.

MR. REIS: I'm just going to suggest we need to get access, we need to get permission to let us in.

MR. NUGENT: I will have Pat set it up.

MR. REIS: Why don't we create an alternative just in case, all right, give him two options so he can't say

March 10, 1997

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no to both, is 5:30 good for all of us, quarter to six?

MR. NUGENT: Got to be 5:30.

MR. KRIEGER: Where are you going to meet, here?

MR. NUGENT: Meet right here in the parking lot cause I don't know where the house is, I will set it up with pat.

MR. REIS: 5:30, what's the other alternative?

MR. NUGENT: She'll call everybody and give them the date.

MR. BABCOCK: You go down Riley Road where it comes right next to the Thruway by the gate just past that on the right, it's a new shale right going up in there, you can't miss it.

MR. TORLEY: Is there a sign now?

MR. BABCOCK: I don't remember a sign going down Riley Road.

MR. REIS: On the Thruway side?

MR. BABCOCK: No, opposite the Thruway.

MR. NUGENT: Before the aqueduct?

MR. BABCOCK: Well, you're going passed the aqueduct, you keep right on going.

MR. NUGENT: So that is what we'll do, we'll have Pat set up a time for us and then she'll get ahold of each and every one of us.

MR. REIS: So either a Monday evening or Sunday afternoon?

MR. NUGENT: Yes.

MR. KRIEGER: Monday or Wednesday.

MR. TORLEY: I would suggest Mondays because Mondays are blocked anyway.

MR. KANE: That is fine with me. Do we need to make that a motion?

MR. REIS: Can I make a comment?

MR. NUGENT: Sure.

MR. REIS: What if we find four apartments, how is this going to influence our position here?

MR. KANE: Advice on that, do we not say anything on the site but come back for the hearing at that point and state what we find for the record?

MR. KRIEGER: My advice at the very least don't say anything there, it's not formally constituted and--

MR. TORLEY: Really it is, we're subject to all the open meeting laws if there's more than two of us.

MR. KRIEGER: You're right, you're subject to open meeting laws and the best way to comply with that is just not to say anything, then you don't have a problem. Larry brings up a point in support of what I said before, I was just basing it on good sense, I hadn't even thought of that, that is another reason not to say anything. Now, afterwards you can consider what if anything you're going to say at a preliminary almost virtually assured of doing that you can even ask, you're going to require them to the applicant to show his new evidence and put his cards on the table so to speak and you may decide to say something then however you may not. If there's a vote that he is going to have a formal hearing, if you say something at the preliminary, maybe by the formal hearing he's got an answer. However, if you bring it up at the formal hearing it's like right now that the chances are less. And it has always been my experience that given an opportunity, one is generally surprised if not shocked at the answers to questions you thought were unanswerable that could come up if somebody is given enough time to think about it.

MR. TORLEY: If we show up and see it's a four family house now, that means we're in the presence of an open violation, what do we do then?

MR. KANE: Nothing, we're not enforcement.

MR. BABCOCK: Right.

MR. KANE: Would not be there.

MR. BABCOCK: No until he get's a decision.

MR. NUGENT: No, we want to see for ourselves what the building looks like.

MR. BABCOCK: Until he gets the decision from this board, we're just on hold.

MR. KRIEGER: You're not required to do anything is the answer.

MR. TORLEY: Sure take note of it though.

MR. KRIEGER: You're there basically for your own purposes, Mike points out there's no enforcement capability, you have no enforcement responsibilities.

Date 2/18/97, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Roth 147 Sycamore Dr DR.
New Windsor Ny 12553

DATE			CLAIMED	ALLOWED
1/27/97	Zoning Board Mtg		75.00	
	MISC - 2			
	UG R - 7			
	Pietrzak - 3			
	Pizzo - 3			
	AF&F - 7			
	Beddings - 17 ✓ 76.50.			
	Coyman - 3			
	L&M 3		202.50	
	45 pp			
			277.50	

PUBLIC HEARING:

REDDINGS, MERRELL

MR. NUGENT: Request for use variance to allow existing four-family residence at 16 Reddings Drive in an R-3 zone. (Two-family residences permitted).

Richard Schisano, Esq. appeared before the board for this proposal.

MR. SCHISANO: Let me start off. My name is Rich Schisano, I'm here speaking for Mr. Reddings. We also have with us tonight Steven Reich, appraiser, who's a certified appraiser and would like to speak tonight about the relative values of the property. As you know, this is a request for a use variance to convert an existing two family residence into a four family residence. The premises is located at 16 Reddings Place in New Windsor. I want to bring to the board's attention and I think the board knows after reviewing the minutes of the last meeting you did mention it, that this property meets all other criteria for a four family residence. Evidently, it's in a R-3 zone which only would permit a two family. At that time, Mr. Redding was given a sheet by Mr. Krieger asking to be able to speak on certain criteria. You have heard Mr. Krieger had just given the same sheet to the last applicant. First factor that we must speak on is that the applicant cannot realize a reasonable return as a two family basically in this particular case. Mr. Reddings had gotten to his accountant, Ken Copans to prepare some data on this issue. I'm going to submit a profit and loss statement at least for the last year, as to this particular property as a two family and also a projection if as a four family. Now, I just want to bring to your attention that what we did when preparing this we're not, we're not considering the applicant as residing in any one unit so this would really show a true picture of profit and losses in a two as opposed to a four. In this particular case, if allowed to convert to a four family, I believe Mr. Reddings would be desirous of occupation one of the units which would skew these figures here. Now, after taking into account the gross rents and normal expenses, Mr. Copans

has come up with a loss for this property as a two family during the past year of nearly \$8,000. The exact anything being \$7,738, which means basically before Mr. Reddings gets out of bed each week, he's operating at a loss to the tune of \$150 a week as a two family. Now, obviously, this is a tremendous money drain to Mr. Reddings. Conversely as a four family, if all four units were to be rented which is not Mr. Reddings' intention I believe Mr. Reddings intends to occupy one of the units, it would show a small profit. This profit being that he would occupy one of the units which would be wiped out and basically his benefit feet if it as four family would be living basically rent free. That would be the one benefit but as two family, which is the use permitted under the table which is currently being used, he's showing a substantial loss on his investment. Secondly, I'd like to point out that this hardship--

MR. NUGENT: Is there sewer and water on that?

MR. REDDINGS: There's sewer.

MR. NUGENT: Just sewer?

MR. REDDINGS: Yes.

MR. SCHISANO: Also what Mr. Reddings has, he has four pictures that I guess the board required of different angles of the property. All right, I'd like to hand up these four pictures. These four pictures are what the house currently looks like. After renovated to be a four family, it will look exactly the same, there will be absolutely no renovation to the outside of the property. If you look at the pictures, Mr. Reddings has built this basically as a one family colonial with the entrance on the inside, okay. There will be absolutely no change to the exterior portion, that you very much for making the copies, by the way. There will be absolutely no change to the exterior portion of the property so it's really not going to change the character of the neighborhood. Furthermore, I'm told by Mr. Reich, who's familiar with the area that on Riley Road there's other multi-family dwelling or dwellings. All right, as I have stated before, that

you know Mr. Reddings had recently, not recently, within the last two years built this particular house, is that fair to state?

MR. REDDINGS: Yes.

MR. SCHISANO: It's basically on a private road which is ready to be dedicated to the Town of New Windsor, I believe he's taken steps for the road dedication. I can't say I'm familiar with the exact, you know, where that is exactly right now, if anybody needs to know, Mr. Reddings is here, can fill you in on the status of the road dedication. This structure was the first structure built on a subdivision made by Mr. Reddings, I believe that the surrounding homes and you know I'm going to talk very briefly of the surrounding homes because I'm personally not too familiar with the surrounding homes, I'm sure members of the board are more familiar and Mr. Reich also will speak, is qualified to speak in regard to surrounding homes. They are basically older homes or either already multi-family homes or would not meet the criteria of a four family so this would really be unique to Mr. Reddings' situation since Mr. Reddings' house and property which is a subject of this application already meets every other criteria of a four family home, you know, but for this use variance. Furthermore, on the last criteria, this is not self-created, I mean it's a two family, currently he's asking to have this changed to a four family so it has not been created at all at this point. It's not as if it's a four family and they are coming to this board trying to undo something that he did already. What I'd like to do now is have Mr. Reich speak as to the value of the property as a two family as opposed to a four family. As I said, I have his card here, I don't have a resume of credentials but hopefully, that will help. I would like to submit that you know basically what he'd like to speak about is number one the surrounding area and number two, the value of the parcel of property showing the loss nearly \$8,000 per year as to one that you'd be able to basically break even at.

MR. REICH: Just very, very quickly, as you know, I have been appraising in this area for going on about

eight years. How I met Mr. Reddings, I was asked by the bank to come out and do the preliminaries for the project that Mr. Reddings was doing and getting his financing through the bank. That is how I met him. I also was there during the course of the construction because I was the appraiser, had to go out and do the inspections for him to get his payments. So I saw that the house being built as well. I have done a lot of houses in the Orange County area and in the New Windsor area. When we go out to do residential homes, we find that in single to four family homes, most of the time, market value sets precedent versus income approach, which is one of the aspects or the cost approach which is another one of the aspects of determining value. We find that when you're doing a single family home, we don't use the income approach cause we find that the income approach doesn't justify value. When we get to a two-family home, we get either a minimum or negative in a fairly new home, we're not talking about an urban setting, we're talking about a suburban setting, where you have had major depreciation in value, now income is now setting precedence. But in this case, there's a brand new home the quality of home is equal if not better than most of the New York State building standards and the income approach at that time has pretty well justified as a basic that the income approach doesn't support value either. It's not until you get to a three family or four family in the newer style homes that you start to reap the benefits for no other reason other than the cost of building today, in the cost of construction. So from that standpoint, the design of the home is designed as a single family. From the appearance from the outside, the house looks like a single family home, it's a good looking colonial style home, looks better than some of the homes in the area of Riley Road so it really has no adverse effect of value, it sort of increases the area. And there are other multi-family homes spread out in not only different corridors of New Windsor but also the other towns that we, you know, that I do appraising in as well. So, you know, basically, increasing the house from a two family to a four family with strictly internal changes really would have no effect to the value in the area.

MR. NUGENT: Any other questions?

MR. KANE: When was this house built?

MR. REDDINGS: '86, or '95, I think '95, '96.

MR. TORLEY: In your financial statement there, why is the, why isn't depreciation, you haven't taken a charge down for depreciation?

MR. SCHISANO: I guess what the accountant was doing is trying to show the real effect of Mr. Reddings' as from a two family to four family depreciation which is basically a paper transaction, I mean this is what's coming out of his pocket every week and that is, you know, what he feels that is, what he wanted to show the board the actual impact on him, you know, without taking, you know, any paper deduction.

MR. TORLEY: So this structure is put up as a two-family house?

MR. SCHISANO: Yes.

MR. TORLEY: And you're saying looking at the size of that renting half the house, you can only get \$650 a month for half?

MR. SCHISANO: Again, I'm not a real estate agent but I know there's a point of diminishing returns when you come to size. You're not going to get much more, you know, regardless of the space, he is going to get what the market will bear. But again, I'm not a real estate agent and I'm not familiar with that.

MR. REIS: How many bedrooms?

MR. TORLEY: You have seen the photographs?

MR. REIS: No, I haven't.

MR. REIS: Is each apartment on one level or are they up and down?

MR. REDDINGS: They'll be on one level.

MR. TORLEY: So right now there are two apartments, one on each level?

MR. REDDINGS: Correct. No, they'll be on one level, both units will be on one level.

MR. TORLEY: Now it's a two-family house?

MR. REDDINGS: Right, all on one level.

MR. TORLEY: Two apartments, are they up and down or--

MR. REDDINGS: Across.

MR. REIS: Just for the record, how many bedrooms do you have in each unit?

MR. REDDINGS: Two.

MR. KRIEGER: As it exists now?

MR. REDDINGS: As it is now, correct.

MR. REIS: And to create a four family unit would have one bedroom in each unit?

MR. REDDINGS: No, still be two in each unit.

MR. TORLEY: Where are the other rooms now? I mean if right now it's two family apartment, each with two bedrooms and you want to add two more apartments each with two bedrooms already, where are those extra rooms now?

MR. REDDINGS: The rooms, it would just be a division between the one big room to make it into two rooms.

MR. BABCOCK: Maybe I can clarify. It's a two story house, on the second floor, there's two apartments. He wants to duplicate the two apartments right underneath it on the first floor.

MR. TORLEY: So at the present, the first floor is empty?

MR. REDDINGS: Correct.

MR. TORLEY: But this was built as a two-family house with the first floor empty?

MR. REDDINGS: Yes.

MR. NUGENT: Well, well, that is all that is allowed. There's a few questions that I have. Are you finished with your presentation?

MR. SCHISANO: Yes.

MR. NUGENT: One of the requirements for a use variance is that you address each and every other item in that zone and there are, off the top of my head, ten uses for that, for that zone which you didn't address. For example, place of worship, could the building be used as a place of worship? Sure, it could, it could.

MR. SCHISANO: Profit on a place of worship would not be--

MR. TORLEY: Profit doesn't matter.

MR. SCHISANO: Reasonable return.

MR. NUGENT: You know using that obviously looking at the building, I don't think we'd have much use as a place of worship.

MR. KANE: You have to address each one.

MR. NUGENT: That is what I was getting at, you have to address each use and do it.

MR. NUGENT: There's 3 two family items in the bulk table, one which that is why I asked you this question, one was water and central sewer, and one was central sewer only and one with nothing, and Mr. Reddings said that he had central sewer.

MR. REDDINGS: Correct.

MR. NUGENT: So we're looking at 65,000 square feet minimum lot size, now I missed this piece of paper went by me too fast.

MR. SCHISANO: This lot is 65,341, one foot larger. It meets the requirements. And here's the Schedule A for the deed, if you want that submitted showing the square footage of the lot.

MR. NUGENT: What I was just questioning is that there were, there wasn't mention made of the other items, it could have been, I realize that there are many of them, it isn't possible for it to be. Such as building construction owned by the Town of New Windsor, Town of New Windsor doesn't own it.

MR. SCHISANO: If you want, we could address each use right now.

MR. TORLEY: At least conceivably some of those you don't have to spend a lot of time talking about the Town of New Windsor.

MR. NUGENT: Playgrounds or commercial forestry and it's not necessary. But that is part of the--

MR. SCHISANO: We'd want to meet the requirements certainly if we have to.

MR. TORLEY: Do you have a copy of the bulk tables?

MR. SCHISANO: No, I don't.

MR. TORLEY: Can we impose on you to scan down those?

MR. NUGENT: Yes.

MR. TORLEY: Just refer by row across or number, that will help.

MR. SCHISANO: Central sewer, 65,341, all right.

MR. TORLEY: Clearly the lot meets the requirements for a two-family house.

MR. SCHISANO: And the width required front yard required side yard.

MR. NUGENT: He has all that.

MR. KRIEGER: Just the uses that are listed in A.

MR. SCHISANO: Okay, the uses listed in A, raising of field and garden crops, vineyard, orchard farming and the maintenance of nurseries, well--

MR. KRIEGER: Are there any trees on the property as it exists now?

MR. REDDINGS: Yes, there's trees now.

MR. TORLEY: What's the minimum requirements for a farm, it's more than 65?

MR. KRIEGER: It's five acres, he doesn't have five acres.

MR. SCHISANO: Next, buildings, structures, uses owned and operated by the Town of New Windsor.

MR. KRIEGER: Next.

MR. SCHISANO: Public parks and playgrounds.

MR. REDDINGS: Next.

MR. KRIEGER: Next.

MR. SCHISANO: Commercial forestry, there's only a couple of trees, I think outdoor recreational facilities, including golf courses, ice skating rinks, swimming pools, parks, play fields and ski areas.

MR. KRIEGER: What's the minimum size for that?

MR. SCHISANO: It's probably the 5 acre. Doesn't apply. Places of worship, including parish houses, again, this would be totally unsuitable for a place of worship, that would be 3 acres anyway. Next under 15 acres, well, 15 acres would not apply. Next one family

detached dwelling not, not to exceed one dwelling on each lot without central water and sewer.

MR. REDDINGS: Doesn't apply.

MR. SCHISANO: One family detached dwelling not to exceed one dwelling on each lot with central water and sewer.

MR. REDDINGS: No.

MR. TORLEY: Meets all requirements for one-family dwelling.

MR. SCHISANO: Right, it certainly does. Basically, that is it, one family and two-family dwelling and I don't think there's anything else.

MR. TORLEY: What would the structure be worth as a one-family dwelling? It's a big house.

MR. REICH: Well, it's a real big house, but you get to a point where it becomes an over improvement, depending on the size.

MR. TORLEY: How many square feet is it?

MR. REICH: Well, the finish area is a little over 2,000 square feet, if made into a four family, it would be 4,000.

MR. KANE: But as a one family home, in your opinion, in your opinion what would--

MR. REICH: If it was 4,000 but he doesn't have 4,000 finished.

MR. KANE: As a one family home, in your opinion, in that area, what would that home possibly bring in that area, in your professional opinion?

MR. REICH: Knowing what's selling in that area and what's selling on Riley Road?

MR. KANE: Correct.

MR. REICH: Probably about 175, 180.

MR. KANE: How much did you spend to build the home, sir?

MR. REDDINGS: Well, since a lot of my own effort went into it, just number wise, at least that but my own effort in addition to that which I wasn't credited for.

MR. KANE: Reasonable estimate?

MR. TORLEY: We'll ask the expert, as if you were to market that as a two-family home and a four-family home, what would it go for if you are selling the unit not trying to rent?

MR. REICH: If we were, when I did the appraisal, okay, it came in at that, at the 175.

MR. TORLEY: So it is worth one family?

MR. NUGENT: As a two family?

MR. REICH: Yes.

MR. TORLEY: 175 if you own the whole structure yourself.

MR. REICH: Right.

MR. KANE: And your estimate for building this including your time and effort?

MR. REDDINGS: Probably have that much in it.

MR. KRIEGER: You paid out 175 in cash and you probably have another 175 worth in terms of your effort and labor.

MR. SCHISANO: I don't know if its another 175 but other--

MR. TORLEY: Total value of the house, this structure is on the order of 175, \$180,000.

MR. SCHISANO: Right.

MR. TORLEY: And you're also saying that structure could be sold as a two-family house for 175, \$180,000?

MR. REICH: Yes.

MR. TORLEY: In order to get a use variance, you have to show that you cannot get a reasonable return for any appropriate or approved value in that zone, you just told me that it can be sold legally as a two-family house for what you put into it.

MR. NUGENT: I think they misunderstood. I think Mr. Reddings misunderstood that question. When he was asked how much he had into it, he took it to mean what he took out of his pocket, he didn't put into it what he has not only called sweat equity, which is the work that you did yourself. Now, if you look at the job that you are doing right now and you got an hourly wage for it, that is worth the same amount as you put in that building.

MR. KANE: So what we need you to do is estimate what you spent for the building and give us a dollar figure including your time and effort into that.

MR. KRIEGER: If you had to hire somebody to do the things that you did yourself what would it have cost you to do all that?

MR. TORLEY: We have an expert here in the field of appraisers.

MR. REICH: You also have to--

MR. KANE: We have an expert that is in the field of what the house is worth right now, he's not an expert what he put into it.

MR. REICH: You also have to remember that I do not compare two family to single family.

MR. TORLEY: If I had hired someone or if you had hired

a contractor to build you this structure, what would he have charged you?

MR. REDDINGS: Probably about \$400,000.

MR. TORLEY: Well, we need more than a guesstimate. If you built something, it wouldn't have cost as much to build it as a two-family house with just the one floor, right, so you built something more than the zone, you built it as if it is going to be a four family house. In other words, not allowed to be a four family house, so it is hard to justify giving you credit for moneys that you put into a structure for some purpose that is not approved.

MR. REDDINGS: But I built the road to the specs of the town so that I can dedicate it to the town.

MR. TORLEY: Yeah, that is a town road, it doesn't effect whether or not it can be two or four family.

MR. KRIEGER: But the effort you put into the road, the money and effort and whatever that would be the same whether it was a two family or four family or anything, what would be different is the structure, it's so--

MR. TORLEY: If you put up, if you had this house here and you put up one-family house, cost exact amount, it would cost, pick a number just to talk about it \$100,000 and obviously not correct, \$100,000, but you said no, I'm going to put up a 12 story apartment buildings, we're making a hypothetical, then you come in and say gee, I can't put a return on my structure, I put in so much money, you have to let me have a 12 story apartment building, tell you you could have built a two family apartment building and got a reasonable return, you built something else that is not permitted in the zone, so you shouldn't be able to come to us and say gee, I spent too much, I have got to get a variance.

MR. REDDINGS: We would have, if we would have built it to get a two family, to get a reasonable return, we wouldn't have gotten that return.

MR. TORLEY: But you couldn't have got that return. My point is if you would come in here with a vacant piece of land, say look, I want to build a four family apartment house, because our data shows that a two-family house will not give a reasonable return but you have come in with a structure already built that obviously cost more than it would have if it was built for a permitted use in the zone. Now you're saying you have got to let us have this nonpermitted use because we put the extra money in.

MR. SCHISANO: What I am coming before the board for is a very real loss, also, number one. Number two, if you go and speak to builders about building a structure, it's not unreasonable for a builder to tell you it's going to cost approximately 75 to \$100 per square foot for the cost of a house. Now, simple multiplication even at the best possible figures I mean for the builder it's \$75 a square foot, if you can find somebody to work for that. We're still talking about \$300,000 here or something that has a value of a 175.

MR. TORLEY: But nobody told you to build it that way either, that now becomes a self-created hardship, you're putting more than you can get out of the structure because you built it for a non-permitted use.

MR. SCHISANO: It's there and it's a real loss, that is why he's before the board.

MR. KANE: Mr. Chairman, can we open it up to the public at this point?

MR. NUGENT: Yes, we can open it up to the public. Would you like to speak?

MR. GEORGE BLAKE: No, I was just, I live directly across the street and there's not only one home, there's two homes in there and my question is is each house going to be four family or--

MR. SCHISANO: No, this is about one particular property.

MR. BLAKE: Only one house, okay, that is all.

MR. NUGENT: Are you for or against this?

MR. BLAKE: No, no, I'm just, I live directly across the street from it, I'm just wondering what's going on.

MR. NUGENT: No one else? I'll close the public hearing and open it back up to the board.

MR. KRIEGER: Now there are on this project two houses that were constructed, two buildings?

MR. REDDINGS: Nope, just one.

MR. SCHISANO: No, there's one.

MR. KRIEGER: I know there's an application for one, what I am trying to figure is whether there was another one constructed for which, there's not an application and apparently not.

MR. REDDINGS: No.

MR. NUGENT: Any further questions?

MR. KANE: No.

MR. REIS: I have no questions.

MR. NUGENT: Then I will accept a motion.

MR. KANE: I move that we grant the requested use variance for Mr. Reddings at 16 Reddings Drive.

MR. TORLEY: For the purpose of having a motion, I will second it.

ROLL CALL

MR. REIS	AYE
MR. KANE	NO
MR. TORLEY	NO
MR. NUGENT	AYE

MR. NUGENT: Denied.

MR. KANE: Mr. Reddings, I'd like to qualify my vote, you need to do a better job giving us a financial look at what you put into that home and that is where I think you failed. We need real hard core data so that this does not get overturned down the line and that is what this state puts on us and I just didn't feel that you covered every base. I knew what you did and what you wanted to do but technically, it wasn't there for me, you needed it in dollars and cents, and you can come back in what, six months, and reapply and then you have a little more--

MR. KRIEGER: Actually, if you have new evidence, which is precisely the point that you are raising.

MR. TORLEY: And you need a unanimous vote to do that.

MR. KRIEGER: Yes.

MR. REDDINGS: You're saying that my evidence relative to like I said the equity that I put in, my own efforts in order to complete it?

MR. KANE: Unless you can give me dollars and cents and you can put it down on paper exactly what you put into there X amount of hours, X amount of things then what you're saying is a guesstimate on your part and that is really hearsay.

MR. REDDINGS: As he indicated to me, I can give you the current rate I make at \$20 an hour, approximately.

MR. TORLEY: You have to do that and a contractor's bid, what it would cost.

MR. KANE: I don't even need that extreme for myself, it would be you need to put down a hundred hours of my own time into this and built this thing up.

MR. KRIEGER: The value of your labor on the house is not the same as your value at your job. You would, if you had to hire a carpenter or a mason or an electrician or plumber, and you'd have to hire all those people, their labor is not necessarily worth \$20

an hour, maybe worth more, maybe worthless. But that is the standard, if you are doing carpentry work, which is good and workman like quality, it would be the same quality as something for the board to find but it would be the same if your argument is that it's the same quality as if I hired some guy who called himself a carpenter than the value of what you did per hour is the number of hours times what a carpenter would make, not necessarily what you would make doing your job. That is where the multiplication is not as simple because you don't have to detail what you did but typically if a person's putting in as the chairman called it sweat equity, you would have to say well, you'd have to be able to say I spent so many hours doing carpentry work and the going rate in the area for carpentry work is this, but I also spent work time doing mason's work and I spent time doing plumber's work and for each one of those, you'd have to say how many hours that you put in and what the going rate in the area is for that trade. They are all going to be different and none of them will be the same as what you're making for your job.

MR. KANE: I'd like to see you reapply before the board, it's a beautiful home and nice area.

MR. NUGENT: We have to move on.

1/27/97 Public Hearing: Leddings, Merrell #96-45.

Name:

GEORGE BIALY

Address:

108 Relay Rd New Windsor

Reddings/ Bain Subdivision
Nov. 13, 1994
By: J. Dragan
Lot No. 4

SCHEDULE A

All that certain piece, parcel or lot of land situate, lying and being in the Town of New Windsor, County of Orange, State of New York known and designated as Lot No. 4 of a certain subdivision map entitled "Subdivision- Lands of Reddings & Bain" filed in the office of the Orange County Clerk on November 4, 1994 as Map No. 184-94 and more particularly described as follows:

Beginning at a point lying on the division line with lands now or formerly of Baker, said point being the southerly most corner of the premises herein described and being the westerly most corner of lands of said Baker, further described as being located N43°36'30"W, 356.02 feet from the northwesterly boundary of Riley Road as measured along the division line with lands of said Baker and lands of the Grantor; thence from said point of beginning along the division line with Lot No. 2 of the aforementioned Map No. 184-94 N43°36'30"W, 90.00 feet to a point, said point being the common corner with Lot No. 2 and Lot No. 3 of the aforementioned Map No. 184-94, thence along the division line with said Lot No. 3 N41°19'41"W, 405.02 feet to a point lying near a stonewall, said point lying on the division line with lands now or formerly of Boyce; thence along lands of said Boyce N70°11'15"E, 145.31 feet to a point, said point being the common corner with Lands now or formerly of Garrison; thence along lands of said Garrison and lands now or formerly of Kennedy and Scott S43°36'30"E, 419.38 feet to a point, said point lying at a corner with lands of the aforementioned Baker; thence along lands of said Baker S40°00'00"W 150.00 feet to the point or place of beginning.

Containing 65,341 SF more or less.

Together with an easement for purposes of ingress and egress, said easement being 50.00 feet in width over Lot No. 2 of the aforementioned Map No. 184-94, said easement more particularly described as follows:

Beginning at a point lying on the northwesterly boundary of Riley Road, said point lying on the division line between said Lot No. 2 and lands now or formerly of Baker; thence from said point of beginning along the said northwesterly boundary of Riley Road S30°27'30"W, 52.00 feet to a point lying on the division line with Lot No. 1 of the aforementioned Map No. 184-94, thence along the division line with said Lot No. 1 N43°36'30"W, 202.79 feet

to a point, said point being the northerly most corner of said Lot No. 1; thence through lands of the Grantor the following two (2) courses and distances:

1. N43°36'30"W, 257.50 feet;

2. N46°23'30"E, 50.00 feet

to a point, said point being the common corner of Lots No. 2, 3 and 4 of the aforementioned Map No. 184-94, thence along the division line with said Lot No. 4 S43°36'30"E, 90.00 feet to a point lying on the division line with the aforementioned Baker; thence along the division line with said Baker S43°36'30"E, 356.02 feet to the point or place of beginning.

Pls. publish on or before Jan. 8, 1997. Send bill to Applicant at below address.

PUBLIC NOTICE OF HEARING BEFORE
ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York, will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following Proposition:

Appeal No. 45

Request of MERRELL REDDINGS

for a VARIANCE of the Zoning Local Law to permit:

A ~~Four~~-Family RESIDENCE WHERE TWO FAMILY RESIDENCES ARE PERMITTED;

being a VARIANCE of Section 48-9-Table of Use/Bulk Regulations - Col. A

for property situated as follows:

16 Reddings Place, New Windsor, N.Y. 12553.

known as tax lot Section 65 Block 1 Lot 42.4

SAID HEARING will take place on the 27th day of January, 1997, at New Windsor Town Hall, 555 Union Avenue, New Windsor, New York, beginning at 7:30 o'clock P. M.

James Nugent
Chairman

By: Patricia A. Barnhart,
Secy.

ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR
COUNTY OF ORANGE : STATE OF NEW YORK

In the Matter of Application for Variance of

Merrell Liddings

Applicant.

AFFIDAVIT OF
SERVICE
BY MAIL

96-45.

STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, New Windsor, N. Y. 12553.

On Jan. 3 1997, I compared the 12 addressed envelopes containing the attached Notice of Public Hearing with the certified list provided by the Assessor regarding the above application for variance and I find that the addressees are identical to the list received. I then mailed the envelopes in a U. S. Depository within the Town of New Windsor.

Patricia A. Barnhart
Patricia A. Barnhart

Sworn to before me this
3rd day of January, 1997.

Deborah Green
Notary Public

DEBORAH GREEN
Notary Public, State of New York
Qualified in Orange County
4984065
Commission Expires July 15, 1997

(TA DOCDISK#7-030586.AOS)

Date 11/28/96, 19.....

TOWN OF NEW WINDSOR

**TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553**

TO Frances Roth 147 Sycamore Dr DR.
New Windsor Ny 12553

DATE		CLAIMED	ALLOWED
1/25/96	Zoning Board Mtg	75.00	
	Misc - 3		
	Demboff - 2		
	Bedding - 6	27.00	
	Cayman - 5		
	KLOG - 4		
	<u>20</u>	<u>90.00</u>	
		165.00	

PRELIMINARY MEETING:

REDDING, MERRELL

MR. NUGENT: Request for use variance for existing four-family residence located at 16 Redding Place on private road in an R-3 zone. Two-family residences permitted.

Mr. Merrell Redding appeared before the board for this proposal.

MR. NUGENT: Step right up by that table and tell us what you want to do.

MR. REDDING: I would just like a use variance to increase it from two family which I'm in a R-3 zone which is now permitted to two family to change it to a four, a use variance.

MR. NUGENT: How long has this been a four family?

MR. REDDING: The building was just recently complete as of '95.

MR. TORLEY: Was it renovated or built?

MR. NUGENT: Mike, would you like to add something to this?

MR. BABCOCK: No, it was built as a two family with a--

MR. NUGENT: Has a C.O. as a two family?

MR. BABCOCK: Yes.

MR. TORLEY: How old is it?

MR. NUGENT: One year.

MR. TORLEY: Well, I thought there was only single family residences on private roads.

MR. BABCOCK: Well, actually this is a, no, you can have two family on a private road, it's going to be a

town road, it's right now as a private road. What the law says, Larry, is what you're thinking about it says on a proposed, if you have an existing private road, it's acceptable, proposed private road.

MR. REDDING: It's currently being dedicated to the town.

MR. BABCOCK: It's going to be a dedicated town road so that is going away, he's already bonded it, he's done all his paperwork to do that.

MR. NUGENT: But it's an R-3 zone which is two family zone.

MR. BABCOCK: That is correct.

MR. REIS: Can you place Redding Place, I can't recall it.

MR. BABCOCK: It's on Riley Road where Riley Road gets very close to the Thruway where the Thruway gate is approximately right across from there, going from this way after the water plant, you go down along the straight-away, there's a gate that goes out on to the Thruway, just about across from there.

MR. LANGANKE: Is it now completed as a four family, is it already finished as a four family?

MR. REDDING: It can be, to change it from a two to a four, it can be an active four, yes.

MR. NUGENT: It's not now?

MR. KRIEGER: As it exists right now, it's a two family. If you had permission to make it a four family, you could do so easily and quickly, but as it exists, it's a two family?

MR. REDDING: Yes, correct, I can make it, correct.

MR. NUGENT: Isn't this very similar to the Pierre situation?

MR. BABCOCK: Yes.

MR. REDDING: I believe the difference being I have, I meet the criteria for the amount of land that I needed, the municipalities (sic.) that I needed and the other things for this particular building. I didn't have to go after it, being, you know, an area variance in addition to use variance and that, you know, the proper criteria for parking, for space distance amount so on and so forth, just came down to the fact of the use variance.

MR. KRIEGER: If I may suggest that there's one other salient difference, Mr. Belle made application only after the conversions had been completed for some time and it had been operating illegally as a four family.

MR. REIS: You're here on your own volition, Mr. Redding?

MR. REDDING: Yes, sir.

MR. NUGENT: I don't know about the feelings of the rest of the board but he's entitled to, he's entitled to a public hearing but I think it should be explained to you that the hurdles for a use variance are pretty high.

MR. REDDING: Understood.

MR. KRIEGER: I will be happy to at some point if you want me to--

MR. NUGENT: Yes, please do.

MR. KRIEGER: Okay, the criteria set forth on which the zoning board must decide are set forth in state law, this is not a question of local law. They are as the chairman indicated rather stringent. I have prepared a list of those criteria which I will give to you here, perhaps the first one is the, although they are all difficult, perhaps the first one has been found to be the most difficult. It does require substantial proof and as the courts have said dollars and cents proof to prevail. And it's while not impossible to beat, it is

a very difficult one and the state law is written in such a way as to discourage at the very least discourage, possibly more severe than the granting of a use variance. So the zoning board of appeals in acting on your application has some very narrow guidelines within which they must operate. I think if I may, correct me if I am wrong Mr. Chairman, it was the chairman's desire at this point to indicate to you just how difficult it is, it's not like it used to be because for you, there's a considerable expense of both your time and money, not only in application fees and notices but in presenting the kind of proof that is required and before going through that expense, the board wanted you to be able to make an informed decision.

MR. TORLEY: We only granted one or two use variances in the past year and a half.

MR. LANGANKE: Maybe four years.

MR. TORLEY: Give an indication we're bound by state law, that is very difficult to reach the criteria that justifies the use variance.

MR. REDDING: Is there a special use permit along those guidelines?

MR. BABCOCK: No, it's a use variance.

MR. KRIEGER: Permit, special use permits are only available where the town law says that they are available in particular instances then it will say specifically this is a permitted use and then require that somebody go through that particular process. If the statute is silent on it and it appears that the statute, our statute is silent on your application, then that is off the board and you're back to use or area in your case use variance.

MR. TORLEY: And use variance you'd have to show that for every approved use in that zone you could not get a reasonable return on your investment by competent authority, not just saying real estate surveyors, appraisers, demonstrate in dollars and cents and

doesn't mean profit, it's a reasonable return.

MR. BABCOCK: You might want to seek legal advice and go over it with somebody, just so they can explain it to you better in detail, you can explain your situation and they can give you some advice.

MR. TORLEY: You have the absolute right to go forward on this and if you ask us to, we'll set you up, it's difficult, not impossible, but difficult.

MR. KRIEGER: If you request that the zoning board set you up for a public hearing and if that request is granted, it will confer on you a right, not an obligation, give you the right to go forward with a public hearing. But if you should decide not to do so, you're perfectly free not to.

MR. REDDING: The public hearing is for the purpose to see whether or not anyone has a problem with my request?

MR. KRIEGER: Yes, well, and for the board to hear all the evidence that you present in favor of your case. By law, the Zoning Board of Appeals cannot act without a public hearing. It's unlike the planning board in that regard.

MR. REIS: Mr. Redding, to accomplish what you want to do, do you have to enlarge the building any way or is it existing?

MR. REDDING: It's existing physically.

MR. TORLEY: And it would meet, if it were granted such a use variance, it with meet all the other criteria for parking size, et cetera?

MR. BABCOCK: Yes.

MR. TORLEY: Want to make sure you don't have to come back and do it again.

MR. NUGENT: Would you care to continue?

November 25, 1996

10

MR. REDDING: Yes, I'll continue, yes, please.

MR. NUGENT: I'll accept a motion.

MR. REIS: Make a motion that we set up Mr. Redding for his requested variance for 16 Redding Place.

MR. TORLEY: Second it.

ROLL CALL

MR. REIS	AYE
MR. TORLEY	AYE
MR. LANGANKE	AYE
MR. NUGENT	AYE

MR. REDDING: Thank you.



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

17

December 16, 1996

Merrell Redding
16 Redding Place
New Windsor, NY 12553

RE: Tax Map Parcel: 65-1-42.4

Dear Mr. Redding:

According to our records, the attached list of property owners are within five hundred (500) feet of the above referenced property.

The charge for this service is \$35.00, minus your deposit of \$25.00.

Please remit the balance of \$10.00 to the Town Clerk's Office.

Sincerely,

J. Cook lcd.
LESIE COOK
Sole Assessor

/cd
Attachments

cc: ~~Barnhart, [redacted]~~

Bergknoff, Irwin
Route 32
Highland Mills, NY 10930

Nemeth, Ruby
PO Box 81
Vails Gate, NY 12584

Nemeth, Ruby
PO Box 91
Vails Gate, NY 12584

Martin, Peter & Rose Marie
201 East 66th St
Apt. 2A
New York, NY 10021

Hundson Valley Development
Group of New Windsor LP
7 Becker Farm Road
Roseland, NJ 07068

Garrison, George H & Mildred
RD2 Riley Rd
New Windsor, NY 12553

Kennedy, Fitzhugh L. & Delores
RD2 Riley RD
New Windsor, NY 12553

Scott, Lela
6 Scotts M.H.P.
Red Springs, NC 28377

Smith, William & Marion
129 Riley RD
New Windsor, NY 12553

Johnson, Edward & Juanita
121 Riley RD
New Windsor, NY 12553

Cartwright, Augustus J & Essie M
PO Box 563
Vails Gate, NY 12584

Noller, Charles Sr. & Ruth L
99 Riley Rd
New Windsor, NY 12553

Taube, Bertil & Mary A
RD 2 Riley RD
New Windsor, NY 12553

Barger, Richard G & Stenger David
D/B/A Windsor Heights
894-I Route 52
Beacon, NY 12508

Brentnall, William & Elda
RD 2 Riley Road
New Windsor, NY 12553

Blake, George C & Carol A
108 Riley RD
New Windsor, NY 12553

Ienuso, Robert & Barbara
RD 2 Riley Road
New Windsor, NY 12553

Keyser, Debra J
RD2 Box 172
Riley RD
New Windsor, NY 12553

RENT INCOME

Name Merrell M. Reddings

Address 16 Redding Place

Ended _____ 195

Address	1. 2 Family	2.	3. 4 Family	4.	5.	TOTAL
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GROSS INCOME	\$ 15,600.	\$	\$ 31,200	\$	\$	\$
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[illegible]

NET RENTAL INCOME	(7,738 00)			5,740 00					
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DEPRECIATION SCHEDULE

1. Kind of Property	2. Date Acquired	3. Cost or other basis	4. Previous Depreciation	5. Method	6. Rate (%) or life (Yrs.)	7. Depreciation for this year
No depreciation taken						
TOTAL DEPRECIATION						

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

96-45

Date: 12-31-96

I. ✓ Applicant Information:

914 562-1826

- (a) REDDING MERCEL #16 REDDING PL NEW WINDSOR NY 12553
(Name, address and phone of Applicant) (Owner)
- (b) _____
(Name, address and phone of purchaser or lessee)
- (c) _____
(Name, address and phone of attorney)
- (d) _____
(Name, address and phone of contractor/engineer/architect)

II. ✓ Application type:

- (☒) Use Variance (☐) Sign Variance
- (☐) Area Variance (☐) Interpretation

III. ✓ Property Information:

- (a) R-3 #16 Redding Pl New Windsor NY 65-1-42.4 65,341 SQ FT
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? RS
- (c) Is a pending sale or lease subject to ZBA approval of this application? NO
- (d) When was property purchased by present owner? DNA
- (e) Has property been subdivided previously? NO
- (f) Has property been subject of variance previously? NO
If so, when? _____
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? NO
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: NO

✓ IV. Use Variance.

- (a) Use Variance requested from New Windsor Zoning Local Law, Section 48-9, Table of Use/Bulk Regs., Col. A, to allow:
(Describe proposal) REQUEST FOR FOUR-FAMILY RESIDENCE, WHERE TWO-FAMILY IS PERMITTED.

✓(b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

AN EXCESSIVE FINANCIAL BURDEN, IN AN ATTEMPT TO
ADDIN SAME, A SECOND OR THIRD JOB HAS BEEN
EMPLOYMENT

✓(c) Applicant must fill out and file a Short Environmental Assessment Form (SEQR) with this application.

✓(d) The property in question is located in or within 500 ft. of a County Agricultural District: Yes _____ No ✓.

If the answer is Yes, an agricultural data statement must be submitted along with the application as well as the names of all property owners within the Agricultural District referred to. You may request this list from the Assessor's Office.

V. Area variance: N/A

(a) Area variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area _____	_____	_____
Min. Lot Width _____	_____	_____
Reqd. Front Yd. _____	_____	_____
Reqd. Side Yd. _____	_____	_____
Reqd. Rear Yd. _____	_____	_____
Reqd. Street Frontage* _____	_____	_____
Max. Bldg. Hgt. _____	_____	_____
Min. Floor Area* _____	_____	_____
Dev. Coverage* _____ %	_____ %	_____ %
Floor Area Ratio** _____	_____	_____
Parking Area _____	_____	_____

* Residential Districts only

** No-residential districts only

N/A
(b) In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3)

N/A
whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created. Describe why you believe the ZBA should grant your application for an area variance:

(You may attach additional paperwork if more space is needed)

VI. Sign Variance: *N/A*

(a) Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Sign 1	_____	_____	_____
Sign 2	_____	_____	_____
Sign 3	_____	_____	_____
Sign 4	_____	_____	_____
	_____	_____	_____
	_____	_____	_____

N/A
(b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

N/A
(c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

VII. Interpretation: *N/A*

(a) Interpretation requested of New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

(b) Describe in detail the proposal before the Board:

✓ VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or

✓ upgraded and that the intent and spirit of the New Windsor Zoning is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

All of Above

IX. Attachments required:

- ✓ Copy of referral from Bldg./Zoning Insp. or Planning Bd.
- ✓ Copy of tax map showing adjacent properties.
- N/A Copy of contract of sale, lease or franchise agreement.
- _____ Copy of deed and title policy.
- _____ Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot in question.
- N/A Copy(ies) of sign(s) with dimensions and location.
- _____ Two (2) checks, one in the amount of \$50.00 and the second check in the amount of \$300.00, each payable to the TOWN OF NEW WINDSOR.
- _____ Photographs of existing premises from several angles.

X. Affidavit.

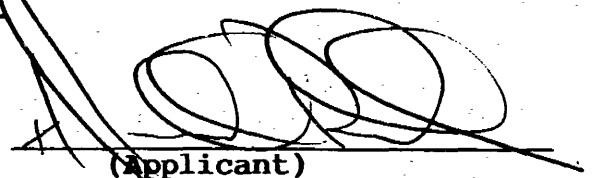
Date: Jan. 3, 1997

STATE OF NEW YORK)

) SS.:

COUNTY OF ORANGE)

The undersigned applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his/her knowledge or to the best of his/or information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance granted if the conditions or situation presented herein are materially changed.


(Applicant)

Sworn to before me this

3rd day of January, 1997.

Patricia A. Barnhart

XI. ZBA Action:

(a) Public Hearing date: _____

PATRICIA A. BARNHART
Notary Public, State of New York
No. 01BA4904434
Qualified in Orange County
Commission Expires August 31, 1997.

(b) Variance: Granted (___) Denied (___)

(c) Restrictions or conditions: _____

NOTE: A FORMAL DECISION WILL FOLLOW UPON RECEIPT OF THE PUBLIC HEARING MINUTES WHICH WILL BE ADOPTED BY RESOLUTION OF ZONING BOARD OF APPEALS AT A LATER DATE.

(ZBA DISK#7-080991.AP)